

ATTACHMENT B TO OAC PANEL ATTORNEY CONTRACT

CLASSIFICATION OF CRIMES – (Revision Date: January 14, 2011)

Crimes shall be separated into seven (7) categories:

Class VII

A Class VII felony is a felony charge of murder with an allegation of one or more special circumstances regarding which murder charge the District Attorney's Office has announced it will definitely seek a penalty of capital punishment.

Class VI

A Class VI felony is a felony charge of murder with an allegation of one or more special circumstances making the case eligible for a punishment of LWOP (Life Without the possibility of Parole). Class VI felonies are divided into two (2) levels. All cases are presumptively Level 1 cases. Class VI, Level 2 is a discretionary level set by OAC if OAC determines the case appears to present a high risk of becoming a capital case. Relevant indicators suggesting such an elevation might be appropriate would include, but not be limited to, comments from the D.D.A. assigned to the case and/or cases presenting such particularly aggravating factors as the victim having been a law enforcement officer engaged in the performance of his or her duties, a minor having been killed during the course of a sexual assault, the use of extreme torture prior to the killing, and/or a case charging the alleged killing of multiple victims.

Class V

A Class V felony includes only charges of murder and attempted, premeditated murder. Class V felonies are divided into two (2) levels. All cases are presumptively Level 1 cases. In the event the attorney believes the case is of such a substantially greater complexity that an increased fee structure is appropriate, counsel may petition the OAC Director to have it declared a Level 2 case. Criteria to be used in determining whether or not a case should be declared a Level 2 case include, but are not limited to, the following: law enforcement officer killed; multiple killings; multiple defendants in excess of three; multiple victims; multiple counts; venue change cases and complexity of issues involved which will complicate the case and present extensive in limine motions.

Class IV

A Class IV felony is any felony charge that would constitute a "strike" offense pursuant to PC 667.5, PC 1192.7 or W & I 707(b), including residential burglary (PC 459/460). Also Class IV felonies shall consist of all felony crimes against the person. These include, but are not limited to, P.C. §192, P.C. §203, P.C. §207, P.C. §211, P.C. §220(a), P.C. §245, P.C. §261, P.C. §262, P.C. §264, P.C. §288, P.C. §289, P.C. §664/187 (no premeditation), and any attempts of Class IV felonies.

Class IV felonies are divided into three attorney fee levels. All cases are presumptively Level 1 cases. In the event the attorney believes the case is of such a substantially greater complexity that an increased fee structure is appropriate, counsel may petition the OAC Director to designate it a

Level 2 or Level 3 case. Criteria to be used in determining whether or not a case should be elevated to Class IV, Level 2 or Level 3 include, but are not limited to, the following: sex crimes; multiple defendants in excess of three; multiple victims; multiple counts; venue change cases and complexity of issues involved which may complicate the case and present extensive in limine motions. Fee elevation decisions are made on a case by case basis in the discretion of the OAC Director.

Cases involving underlying charges of a Class IV nature but with allegations of “two prior strikes” shall be considered Level 2 Class IV felonies. Cases involving underlying charges of a Class III nature but with allegations of “two prior strikes” shall be considered Level 1 Class IV felonies for attorney fee purposes. An allegation of only “one prior strike” in a felony case shall not change the default classification of the case.

Class III

All other felonies shall be designated as Class III felonies. These include drug violations and crimes against property. These also include attempt and others not enumerated. Class III cases also shall be misdemeanor charges which impose mandatory registration pursuant to PC 290 (e.g., certain sub-sections of PC 243, PC 314, 647, etc.).

Class III felonies are divided into two attorney fee levels. All cases are presumptively Level 1 cases. In the event the attorney believes the case is of such a substantially greater complexity that an increased fee structure is appropriate, counsel may petition the OAC Director to designate it a Level 2 case. Criteria to be used in determining whether or not a case should be declared a Level 2 case include, but are not limited to, the following: residential burglary charge, voluminous discovery exceeding 5,000 pages, etc. Fee elevation decisions are made on a case by case basis in the discretion of the OAC Director.

Class II

Class II misdemeanors are Vehicle Code violations involving alcohol and drugs and also include P.C. §148, P.C. §242, P.C. §270, P.C. §272, P.C. §273.5, P.C. §647, any felony charge reduced to a misdemeanor pursuant to P.C. §17(b), and all Welfare fraud misdemeanor charges.

Class I

All misdemeanors not enumerated in Class II will be Class I misdemeanors. Infraction charges are not normally eligible for appointment of counsel and will only be assigned to a panel attorney for handling when they are companion matters associated with more serious charges. The flat fee for resolving an infraction is specified in the fee schedule. No trial fees will be paid for handling infraction matters.

Juvenile Delinquency

All delinquency cases and matters arising out of Juvenile Court.